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10 FACEBOOK, INC.

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**

14
15 FACEBOOK, INC., a Delaware
corporation,

16 Plaintiff,

17 v.

18 JEREMI FISHER; PHILIP
19 POREMBSKI; RYAN SHIMEALL;
and JOHN DOES 1-25, individuals,
20 and CHOKO SYSTEMS; HARM,
INC.; iMEDIA ONLINE SERVICES
21 LLC; and JOHN DOES 26-50,
22 corporations,

23 Defendants.

Case No. C 09-05842 JF

**DECLARATION OF JOSEPH P. CUTLER IN
SUPPORT OF PRELIMINARY INJUNCTION**

24
25 1. I am an attorney in the Seattle, Washington office of Perkins Coie, LLP. I make
26 this declaration based upon personal knowledge and am competent to testify to the facts herein.
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1 2. On or about December 15, 2009, Facebook personally served individual
2 Defendants Jeremi Fisher, Philip Porembski, and Ryan Shimeall, and corporate Defendants
3 Choko Systems LLC, Harm Inc., PP Web Services LLC, and iMedia Online Services LLC, with a
4 Summons, Complaint, and all document required by rule to be served. In addition, Facebook also
5 served all Defendants with a copy of the Notice of Motion and Motion for Temporary Restraining
6 Order ("TRO") that Facebook would file within 48 hours.

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8 3. On or about December 21, 2009, Facebook's Motion for TRO was granted by
9 Judge Jeremy Fogel in his Order Granting Plaintiff Facebook's Motion for TRO ("Order"), which
10 included the date, time, and briefing schedule for Facebook's Motion for Preliminary Injunction.

11 4. On or about December 22, 2009, as required by the Order, Facebook notified
12 Defendants of such Order by electronic mail to their known email addresses and by commercial
13 mail via FedEx with return receipt to the residential addresses where each Defendant was
14 personally served on December 15, 2009.

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16 5. On or about December 22, 2009, Defendant Philip Porembski responded by email
17 to Facebook's electronic mail notice of the Order. Also on or about December 22, 2009,
18 electronic delivery receipts were generated for email addresses known to be associated with
19 Defendants Jeremi Fisher and Ryan Shimeall indicating that Facebook's email notification had
20 been delivered to these email addresses.

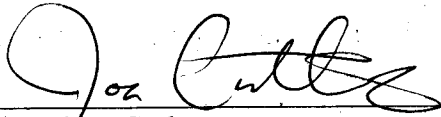
21
22 6. On December 31, 2009, after acknowledging receipt of the notice of the Order,
23 individual Defendants Jeremi Fisher and Ryan Shimeall, signing on their behalf and on behalf of
24 corporate Defendants Choko Systems LLC and iMedia Online Services LLC, respectively,
25 executed stipulated permanent injunctions.

1 7. Between December 22, 2009 and January 4, 2010, I had several electronic and
2 telephonic conversations with Defendant Philip Porembski during which he indicated that he is a
3 principal of Defendants Harm Inc. and PP Web Services LLC. Defendant Porembski also
4 acknowledged receipt of notice of the Order, and has thus far refused my offers to stipulate to the
5 execution of a permanent or a preliminary injunction.
6

7 8. As of January 4, 2010, Defendants Porembski, Harm Inc., and PP Web Services
8 LLC, have not executed a stipulated preliminary or permanent injunction.

9 **I declare under penalty of perjury under the laws of the United**
10 **States that the foregoing is true and correct.**

11
12 EXECUTED at Seattle, Washington this 4th day of January, 2010.

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15 Joseph P. Cutler
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CERTIFICATE OF SERVICE

I certify that on January 4, 2010, I sent the foregoing DECLARATION OF JOSEPH P. CUTLER IN SUPPORT OF PLAINTIFF'S MEMORANDUM IN SUPPORT OF PRELIMINARY INJUNCTION, which was filed with the Clerk of the Court using the CM/ECF system, via U.S. mail and electronic mail to the following Defendants:

Jeremi Fisher
Choko Systems LLC
35 Jackson Street
Akron, New York 14001
chokosystems@gmail.com

Philip Poremsbki
Harm Inc.
PP Web Services LLC
12155 Tributary Point Drive
Apt. 170
Rancho Cordova, California 95670
phil420@gmail.com

Ryan Shimeall
iMedia Online Services LLC
10299 Julian Court
Westminster, Colorado 80031
ryanlinx@yahoo.com

I certify under penalty of perjury that the foregoing is true and correct.

DATED this 4th day of January 2010.


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